IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1244 OF 2006
IN
CRIMINAL APPEAL NO.1177 OF 2006
IN
SESSIONS CASE NO.182 OF 2004

Ravi Raghunath Chavan ..Applicant

Versus

The State of Maharashtra ..Respondent

Mr.R.G.Dubey for the applicant.

Mrs.P.H.Kantharia APP for the State.

Coram : B.H.Marlapalle & R.S.Mohite,JJ

Date : 6th March, 2007.

PC

1. Heard Mr.Dube the learned Counsel for the applicant.

2. This is an application for being released on bail by suspending the order of sentence under Section 389 of Cr.P.C. The learned III AD-hoc Additional Sessions Judge, Palghar was pleased to convict and sentence the applicant vide his judgment and order dated 3.10.2006 for the offence punishable under Section 302 of IPC on the ground that the applicant caused the death of his wife by setting her on fire.

3. The record shows that the incident had taken place on 20.5.2004 and the victim Shubhangi died on 24.5.2004. Her first dying declaration was recorded by PW-7 Arvind Ghadge, the Police constable on duty and in the same at Exh.19 the victim gave the story of an accident by falling the lamp on her person. Whereas, in her 2nd dying declaration at Exh.20 recorded by PW-8 Dhananjay Zunnarkar, S.E.O., she, for the first time deposed that it was the accused who had lit a match-stick when kerosene had fallen on her person in a scuffle between the husband and wife at about 10.00 P.M. on 20.5.2004. The trial Court believed the dying declaration at Exh.21 and also the oral dying declarations made to PW-1 Jaiwant Pawar and PW-8 Dhananjay Zunnarkar. However, when PW-6 Bhagvan Pisal the investigating officer was in the witness box, he admitted that the signature of the victim on the statement recorded by him and the signature at Exh.21 did not tally and we have also seen from the record that the articles collected from the scene of offence were not sent for chemical analysis.

4. Under these circumstances, the accused deserves to be released on bail by suspending the order of sentence. Hence, the application is allowed and it is directed that the applicant be released on bail

on the same terms and conditions as in the trial court during the pendency of the appeal subject to furnishing fresh bond.

5. Hearing of Criminal Appeal No.1177 of 2006 is expedited.

(R.S.Mohite,J) **(B.H.Marlapalle,J)**